

PAMELA BRENNAN et al, No C-04-2676 VRW  
Plaintiffs, ORDER  
v  
CONCORD EFS, INC et al,  
Defendants.

On September 21, 2005, plaintiffs informed the court by letter about a discovery dispute over plaintiffs' requests for production of documents from defendant Bank of America Corporation ("BAC") and its wholly-owned subsidiary Bank of America, NA ("BANA"). Doc #198. Plaintiffs assert that Ninth Circuit law requires BAC to provide these documents on behalf of BANA, which plaintiffs claim BAC has not done. Id. In a response letter filed on September 22, 2005, BAC contends that because BANA is not a defendant in the present suit, BAC does not have to comply with plaintiffs' requests for BANA's documents. Doc #199. In their reply letter filed on September 27, 2005, plaintiffs assert that BANA's party status in this suit is irrelevant -- all that matters

1 is whether plaintiffs are entitled to discovery from BANA. Doc  
2 #200.

3 The court is somewhat puzzled. On the one hand, the  
4 cases cited by plaintiffs suggest that as owner of BANA, BAC must  
5 comply with plaintiffs' requests for BANA's documents. See United  
6 States v Int'l Union of Petroleum and Indus Workers, 870 F2d 1450,  
7 1452 (9th Cir 1989). On the other hand, if BAC is actually the  
8 entity that has the relationship with the Star network -- which is  
9 what plaintiffs allege -- then why do plaintiffs seek discovery  
10 from BANA at all? Alternatively, if BANA has a relationship to the  
11 Star network, then why is it not a party in this case?

12 In any case, the court declines to decide this issue at  
13 this time, given that the record is thin concerning the extent of  
14 BAC's control over BANA. Nonetheless, if the parties cannot reach  
15 an agreement on this dispute, they must contact Chief Magistrate  
16 Judge Larson so that it is resolved no later than February 28,  
17 2006.

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19 IT IS SO ORDERED.

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22 VAUGHN R WALKER

23 United States District Chief Judge  
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